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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,300	11/30/2005	Christophe Naulet	274267US6PCT	5268

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
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ALEXANDRIA, VA 22314

EXAMINER

DONDERO, WILLIAM E

ART UNIT	PAPER NUMBER
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3654

NOTIFICATION DATE	DELIVERY MODE
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12/16/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/542,300	Applicant(s) NAULET ET AL.	
	Examiner WILLIAM E. DONDERO	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-14, 17 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-14, 17 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2008 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 17, 2009 has been entered.

Claim Objections

Claim 12 is objected to because of the following informalities: it appears the word, "moment" should be - -movement- - in line 16. Appropriate correction is required.

Claim 23 is objected to because of the following informalities: it appears the word, "moment" should be - -movement- - in line 18. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 14, 23, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiminski et al. (US-4431138) in view of Green (US-3041663), Schippers et al. (US-5016829), Ideno et al. (US-4511095), and Sakurauchi (JP-06329437). Regarding Claims 12, 14, and 25, Schiminski et al. disclose a winding machine comprising a frame including a barrel 18 positioned on the frame, at least two spindles 9.1,9.2 fastened to the barrel, each of the spindles being configured to support at least one cake 8 and to be movable in rotation about a first axis substantially perpendicular to a diameter of the cake; at least one positioning and guidance device 1 configured to position and guide at least one thread 6 on the spindles; an actuator configured to drive the spindles in a secondary stroke movement such that the spindles move linearly in forward and reverse directions along the first axis (see Column 4, Line 68 – Column 5, Line 4); and a thread retraction device 11 configured to displace the at least one thread by grasping the thread and rotating between a second position, in which the at least one thread is attached to one of the spindles and retracted from the positioning and guidance device, and a third position, in which the at least one thread is engaged with the positioning and guidance device; wherein the barrel is mounted movably in rotation with respect to the frame along a third axis of rotation substantially parallel to the first axis (Figures 1-12). Schminski et al. does not expressly disclose a thread drawer including at least two motor-driven rollers configured to hold at least one thread at a first position before the thread is attached to any of the at least two spindles, the rollers being fastened to the frame of the winding machine at a position directly below the at least two spindles; a straight ejector positioned above the at least two

Art Unit: 3654

spindles and configured to move the thread from the first position to a second position such that the thread is attached to one of the spindles; a linear actuator configured to continuously drive the spindles in forward and reverse directions along the first axis during winding of at least one thread; the thread retraction device being positioned above the at least one positioning and guidance device; a control and command device configured to ensure a regulation of speed and/or of position between a primary stroke movement of the positioning and guidance device and a secondary stroke movement of at least one of the spindles; wherein the positioning and guidance device includes at least one helix mounted movably in rotation about a second axis, substantially parallel to the first axis; and the thread overlaps a distal end of the one of the spindles when the thread is held at the first position.

However, Green teaches a winding machine comprising at least one positioning and guidance device 24 configured to move in a primary stroke movement (the movement being rotational) to position and guide at least one thread 19 on a spindle 18; a linear actuator 46 configured to continuously drive the spindle linearly in forward and reverse directions along a first axis during winding of the at least one thread; and wherein the positioning and guidance device includes at least one helix 24 mounted movably in rotation about a second axis, substantially parallel to the first axis (Figures 1-2; Column 3, Lines 63-74). Because both Schminski and Green teach building a thread package using a positioning and guidance device coordinated with a rotating spindle, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the positioning and guidance (rotational primary stroke movement) and

Art Unit: 3654

linearly shifting spindle of Green for the linear shifting positioning and guidance device and rotating spindle of Schminiski to achieve the predictable result of building the desire thread package as taught by Green (Column 3, Lines 63-74).

Further, Schippers et al. teach a winding machine comprising a thread retraction device 25 positioned above at least one positioning and guidance device 4 and configured to displace at least one thread 3 by grasping the thread and rotating between a second position (Figure 1B), in which the at least one thread is attached to one of the spindles and retracted from the positioning and guidance device, and a third position (Figure 1A), in which the at least one thread is engaged with the positioning and guidance device (Figures 1-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to move the thread retraction device of Schminski to above the positioning and guidance device as taught by Schippers et al. to achieve the predictable result of allowing the thread to be disengaged from the positioning and guidance device.

Furthermore, Ideno et al. teach a thread drawer including at least two motor-driven rollers 9,10,11 configured to hold at least one thread 2b at a first position before the thread is attached to any of at least two spindles 6,6', the rollers being fastened to the frame of the winding machine at a position directly below the at least two spindles; a straight ejector 16 positioned above the at least two spindles and configured to move the thread from the first position to a second position such that the thread is attached to one of the spindles; and the thread overlaps a distal end of the one of the spindles when the thread is held at the first position (see Figure 6) (Figures 1-18). It would have been

Art Unit: 3654

obvious to one of ordinary skill in the art at the time of the invention to add the thread drawer and straight ejector of Ideno et al. to the winding machine of Shiminski et al. to assist with starting the winding of new packages as taught by Ideno et al.

Moreover, Sakurauchi discloses a winding machine with a control and command device 39 configured to ensure a regulation of speed and/or of position between a primary stroke movement of the positioning and guidance device and a secondary stroke movement of at least one of the spindles (Translation Page 8-9, Paragraph [0020]). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the command and control device of Sakurauchi to the machine of Schiminski et al. in view of Green, Schippers et al., and Ideno et al. to have precise control of the winding parameters producing the desired package as taught by Green (Column 3, Line 54 – Column 4, Line 2).

Regarding Claims 23 and 26, Schminiski et al. disclose a method for winding cakes comprising positioning a first spindle 9.1 and a second spindle 9.2 on a barrel 18 located within a frame; rotating the barrel so that the first spindle is in a thread receiving position; grasping a thread 6 with a thread retraction device 11 and rotating the thread between a second position, in which the thread is attached to the first spindle and retracted from a positioning and guidance device 1, and a third position, in which the thread is engaged with the positioning and guidance device; rotating the first spindle having the thread around a first axis; guiding and positioning the thread onto the spindle with a primary stroke movement of the positioning and guidance device; driving the first

Art Unit: 3654

spindle in a secondary stroke movement linearly in forward and reverse directions along the first axis (see Column 4, Line 68 – Column 5, Line 4); and after building up the thread on the first spindle, rotating the barrel so that the second spindle is in the thread receiving position (Figures 1-12). Schminiski et al. are silent about holding at least one thread at a first position with rollers before the thread is attached to the first spindle or the second spindle, the rollers being fastened to the frame of the winding machine at a position directly below the first spindle and the second spindle; moving the thread from the first position to a second position with a straight ejector positioned above the first spindle and the second spindle such that the thread is attached to the first spindle; the thread retraction device positioned above the positioning and guidance device; driving continuously the first spindle linearly in a forward and reverse direction along the first axis while the first spindle is in the thread receiving position; regulating speed and/or position between the primary stroke movement of the positioning and guidance device and the secondary stroke movement of at least the first spindle; and wherein the thread overlaps a distal end of the first spindle when the thread is held at the first position.

However, Green discloses a method of winding cakes comprising guiding and positioning a thread 19 onto a spindle 18 with a primary (rotational) stroke movement of a positioning and guidance device 24 and driving continuously the spindle 18 in a secondary stroke movement linearly in a forward and reverse directions along the first axis (via linear actuator 46) while the spindle is in a thread receiving position (Figures 1-2; Column 3, Lines 63-74). Because both Schminski and Green teach building a thread package using a positioning and guidance device coordinated with a rotating spindle, it

Art Unit: 3654

would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the positioning and guidance (rotational primary stroke movement) and linearly shifting spindle of Green for the linear shifting positioning and guidance device and rotating spindle of Schminiski to achieve the predictable result of building the desired thread package as taught by Green (Column 3, Lines 63-74).

Further, Schippers et al. disclose a method for winding cakes, comprising grasping a thread 3 with a thread retraction device 25 positioned above a positioning and guidance device 4 and rotating the thread retraction device grasping the thread between a first position (Figure 1B), in which the thread is retracted from the positioning and guidance device, and a second position (Figure 1A), in which the thread is engaged with the positioning and guidance device (Figures 1-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to move the thread retraction device of Schminiski to above the positioning and guidance device as taught by Schippers et al. to achieve the predictable result of allowing the thread to be disengaged from the positioning and guidance device.

Furthermore, Ideno et al. disclose a method for winding cakes comprising holding at least one thread 2b at a first position with rollers 9,10,11 before the thread is attached to a first spindle 6 or a second spindle 6', the rollers being fastened to the frame of the winding machine at a position directly below the first spindle and the second spindle; moving the thread from the first position to a second position with a straight ejector 16 positioned above the first spindle and the second spindle such that the thread is attached to the first spindle; and wherein the thread overlaps a distal end of the first

Art Unit: 3654

spindle when the thread is held at the first position (see Figure 6) (Figures 1-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the rollers and straight ejector and the corresponding method steps of Ideno et al. to the method of Schminski et al. to assist with starting the yarn on the new package as taught by Ideno et al.

Moreover, Sakurauchi discloses a method for winding cakes comprising regulating(via a control and command device 39) speed and/or of position between a primary stroke movement of the positioning and guidance device and a secondary stroke movement of at least one of the spindles (Translation Page 8-9, Paragraph [0020]). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the command and control device of Sakurauchi to the machine of Schminski et al. in view of Green, Schippers et al., and Ideno et al. to have precise control of the winding parameters producing the desired package as taught by Green (Column 3, Line 54 – Column 4, Line 2).

Claims 13, 17, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schminski et al. (US-4431138) in view of Green (US-3041663), Schippers et al. (US-5016829), Ideno et al. (US-4511095), and Sakurauchi (JP-06329437) as applied to claims 12, 23, and 25-26 above, and further in view of Westrich (US-6105896). Schminski et al. in view of Green, Schippers et al., Ideno et al., and Sakurauchi does not expressly disclose a index device configured to control a position of the barrel with respect to the frame by continuously modifying an angular position of

Art Unit: 3654

the barrel as a function of a variation in the outside diameter of the cake, to keep a path of the thread constant between its exit point from the positioning and guidance device and its contact point on a periphery of the cake.

However, Westrich teaches a winding machine comprising a index device configured to control a position of the barrel with respect to the frame by continuously modifying an angular position of the barrel as a function of a variation in the outside diameter of the cake, to keep a path of the thread constant between its exit point from the positioning and guidance device and its contact point on a periphery of the cake (Column 10, Line 60 – Column 11, Line 17). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the index device of Westrich in the machine of Schminski et al. in view of Green, Schippers et al., and Ideno et al. to control the shape, size, and quality of the package as taught by Westrich.

Response to Arguments

With respect to Applicant's arguments starting on page 7, line 1 to page 9, line 14, Applicant argues combining Green with Schminski would render the device of Schminski unsatisfactory for its intended purpose and there would be no reasonable expectation of success. Applicant's arguments have been fully considered but they are not persuasive. Schminski teaches a primary linear stroke motion of guide 3 and a secondary linear stroke motion of the spindle (see Column 4, Line 68 – Column 5, Line 4). These motions work together to traverse the thread and form the package. Green discloses a primary rotational stroke motion of the guide 24 and a secondary linear

Art Unit: 3654

stroke motion of the spindle 18 (via actuator 48). Again, these motions work together to traverse the thread and form the package. Therefore, substitution of the guide/spindle of Green for the guide/spindle of Schminski solve the same problem of forming the thread package, and the combination would render the machine of Schminski satisfactory for its intended purpose, winding a thread package, with a reasonable expectation of success.

With respect to Applicant's arguments starting on page 9, line 15 to page 9, line 21, Applicant argues one of ordinary skill in the art would not have replace a rotative retraction device of Schminski by a rotative device of Schippers. Applicant's arguments with respect to claims 12 and 23 have been considered but are moot in view of the new ground(s) of rejection.

With respect to Applicant's arguments starting on page 9, line 22 to page 10, line 21, Applicant argues the computer of Sakaurachi is not capable of controlling the claimed primary and secondary movements. Applicant's arguments have been fully considered but they are not persuasive. As the device of Sakaurachi is a computer, it is capable of being programmed to control anything. Also, Sakaurachi already discloses the computer controls the speed of a collet/spindle. Further, Green discloses there is coordination needed between the primary rotational stroke movement of the guide 24 and the secondary linear stroke movement of the spindle 18 to achieve a desired winding angle and ultimately a desired package (see Green Column 3, Line 54 –

Art Unit: 3654

Column 4, Line 2). Therefore, the computer of Sakaurachi would be capable of controlling the primary and secondary movements to achieve the desired thread package.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM E. DONDERO whose telephone number is (571)272-5590. The examiner can normally be reached on M - F 7 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on 571-272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WILLIAM E DONDERO/
Examiner, Art Unit 3654